

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

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Robert A. Foley, Chair

Cynthia S. Bertocci
Executive Analyst

Ruth Ann Burke
Board Clerk

Memorandum

To: Board Members
From: Cynthia Bertocci, Executive Analyst
Re: Saddleback Ridge Wind LLC / Remand
Date: May 2, 2013

Background

On October 6, 2011, the Department issued a Site Location of Development Act and Natural Resources Protection Act Permit for the Saddleback Ridge Wind Project proposed to be located in Carthage, Canton and Dixfield in Franklin and Oxford Counties. The permit granted approval with conditions for a 33 MW wind energy generation facility consisting of 12 GE 2.75-103 turbines and associated facilities. The licensing decision was subsequently appealed to the Board by Friends of Maine's Mountains, Friends of Saddleback Mountain, and Rand Stowell. The appellants challenged, among other findings, the Department's findings and conclusions regarding compliance with the noise standards of the Site Location of Development Law and the Department's rules pertaining to noise levels in Chapter 375, No Adverse Environmental Effect Standards of the Site Location Law. In an order dated February 18, 2012, the Board denied the appeal and affirmed the Department's approval of the application. Friends of Maine's Mountains, Friends of Saddleback Mountain, and several individuals appealed the Board's decision to the Maine Law Court.

Remand

The Law Court, in a decision dated March 5, 2013, vacated the Board's order and remanded the matter for further review using the 42 dBA nighttime sound level limit set forth in Chapter 375 § 10(I)(2)(b), which was a provisionally adopted rule of the Board at the time of the Board's decision on the appeal.

On April 9, 2013, Saddleback Ridge Wind LLC submitted a new "Noise Impact Study for Saddleback Ridge Wind Farm" dated April 2013, amending its proposed project in response to the Court's decision. The matter currently before the Board is a review of the amended project for compliance with the Department's current rules governing sound level standards for wind energy developments.

Issue before the Board

At the Board meeting on May 2, 2013, the Board will accept comment from representatives of the parties, Saddleback Ridge Wind LLC and Friends of Maine's Mountains et al., regarding the

procedure for consideration of this matter on remand. The Department's rules do not specify the process for a license remanded in an appeal proceeding which requires changes to the application. A proposed process that provides for an analysis by Department staff and the submission of responsive evidence and written comment from the appellants and members of the public has been distributed to the parties for consideration and comment at the meeting on May 2, 2013. Following input from the parties and Board members, the Board Chair will issue a procedural order establishing the process for consideration of this matter on remand.

The proposed process for consideration of the application on remand that was distributed to the parties and a copy of the Law Court's decision are attached. The applicant, Saddleback Ridge Wind LLC, has provided written comment on the proposed process in a letter dated April 23, 2013. A copy of this letter is included in the Board packet.